

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 480 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?-No.
2. To be referred to the Reporter or not?-No.

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3. Whether Their Lordships wish to see the fair copy of the judgement?-No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?-No.
5. Whether it is to be circulated to the Civil Judge?-No.

A M C

Versus

MOHABATKHAN KESHARHAN PATHAN

Appearance:

MR M.G. NAGARKAR, Advocate, for
MR SN SHELAT for Petitioner
MR HK RATHOD for the Respondent.

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 04/04/97

ORAL JUDGEMENT

This petition is directed against the judgment and order dated October 25, 1993 of the Industrial Tribunal, Ahmedabad in Complaint (IT) No.97 of 1986 in

Reference (IT) No.760 of 1981.

2. The respondent-workman was employed as a Conductor by the Ahmedabad Municipal Transport Services (hereinafter referred to as "AMTS"). During the course of his employment, the respondent sustained injuries on August 31, 1985. The injuries resulted into hospitalisation and permanent disability of the right shoulder of the respondent. For some time, he was given light duty, but he was not allotted work from May 1, 1986 and, therefore, the respondent was constrained to file the abovementioned complaint under the provisions of Section 33-A of the Industrial Disputes Act, 1947.

3. In the said complaint, the Tribunal passed an interim order dated July 29, 1986, directing the AMTS to give stand booking duty (which is considered to be light duty) to the respondent complainant until further orders. At the final hearing of the complaint, by judgment and order dated October 25, 1993 the Tribunal set aside the order dated May 1, 1986 of the AMTS and further directed the AMTS to give stand booking duty or any other light duty to the complainant (respondent herein) till he fully recovers from the injury. The AMTS was further directed to pay wages to the complainant from 1.5.1986 to 29.7.1986, if not paid.

4. The aforesaid final order of the Tribunal has been challenged in the present petition. The learned counsel for the petitioner-AMTS has stated that the AMTS had complied with the interim order and has also complied with the final order passed by the Tribunal in the aforesaid proceedings. Mr.Nagarkar has further stated that the respondent-workman is assigned light duty as the Destination Board Attendant in Depot Department.

5. The injury sustained by the respondent-workman was certified by the Orthopaedic Surgeon of the V.S. Hospital and also by another private Orthopaedic Surgeon. On the basis of the said Certificates, the Industrial Tribunal has rightly come to the conclusion that on account of post traumatic loss of abduction beyond 30o of the right shoulder, the respondent will find it difficult to serve as a Bus Conductor. In this view of the matter, the Tribunal was justified in giving the interim as well as the final direction, as aforesaid.

6. The order passed by the Tribunal is eminently just and proper and does not call for any interference in exercise of the extraordinary jurisdiction of this Court under Article 227 of the Constitution of India. The

petition, therefore, deserves to be dismissed and is hereby dismissed.

Rule is discharged with no order as to costs.

(apj)